

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD

SUBCHAPTER b: OTHER BOARD RULES

PART 1125

LONG-TERM CARE

SUBPART A: AUTHORITY

Section	
1125.110	Statutory Authority
1125.120	Introduction
1125.130	Purpose
1125.140	Definitions
1125.150	HFSRB Procedural Rules

SUBPART B: PLANNING POLICIES

Section	
1125.210	General Long-Term Nursing Care Category of Service
1125.220	Specialized Long-Term Care Categories of Service <u>(Repealed)</u>

SUBPART C: GENERAL INFORMATION REQUIREMENTS

Section	
1125.310	Introduction
1125.320	Purpose of the Project – Information Requirements
1125.330	Alternatives to the Proposed Project – Information Requirements

SUBPART D: GENERAL LONG-TERM CARE – REVIEW CRITERIA

Section	
1125.510	Introduction
1125.520	Background of the Applicant – Review Criterion
1125.530	Planning Area Need – Review Criterion
1125.540	Service Demand – Establishment of General Long-Term Care
1125.550	Service Demand – Expansion of General Long-Term Care
1125.560	Variances to Computed Bed Need
1125.570	Service Accessibility
1125.580	Unnecessary Duplication/Maldistribution

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

1125.590	Staffing Availability
1125.600	Bed Capacity
1125.610	Community Related Functions
1125.620	Project Size – Review Criterion
1125.630	Zoning
1125.640	Assurances
1125.650	Modernization

SUBPART E: SPECIALIZED LONG-TERM CARE – REVIEW CRITERIA **(Repealed)**

Section

1125.710	Introduction
1125.720	Specialized Long-Term Care – Review Criteria

SUBPART F: FINANCIAL AND ECONOMIC FEASIBILITY – REVIEW CRITERIA

Section

1125.800	Estimated Total Project Cost
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1125.APPENDIX A Project Size Standards – Square Footage and Utilization

1125.APPENDIX B Financial and Economic Review Standards

AUTHORITY: Authorized by Section 12 of and implementing the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 35 Ill. Reg._____, effective_____.

SUBPART A: AUTHORITY

Section 1125.110 Statutory Authority

- a) This Part is promulgated by authority granted to the Illinois Health Facilities and Services Review Board under the Illinois Health Facilities Planning Act [20 ILCS 3960].
- b) After the effective date of this Part, all applications in the review process and all projects for which permits or exemptions have been issued, but have not yet been completed, shall be subject to this Part.

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) The HFSRB rules in effect on the date of alleged violation of the Act or rules shall be applicable concerning all considerations and issues of compliance with HFSRB requirements.
- d) Advisory Subcommittee
 - 1) The Long-term Care Facility Advisory Subcommittee is created by the Act to:
 - A) *Develop and recommend to the Board a separate set of rules and guidelines for long-term care that recognizes that nursing homes are a different business line and service model from other regulated facilities; and*
 - B) *Provide continuous review and commentary on policies and procedures relative to long-term care and the review of related projects.*
 - 2) *The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used to evaluate project applications as provided under Section 12.3 of the Act prior to approval by the Board and promulgation of related rules. [20 ILCS 3960/12(15)]*

Section 1125.120 Introduction

This Part has been developed, per the Act, for projects involving the establishment, expansion or modernization of general long-term care facilities and specialized long-term care facilities and establishes the procedures and requirements for processing and review of applications for permits, applications for exemption and other matters that are subject to the Act and to determinations by HFSRB. This Part pertains to, but is not limited to, persons and transactions subject to the Act; the requirements for submission of applications for permits or exemptions; the HFSRB review process; public hearing procedures for applications and proposed rules; requirements for maintaining valid permits; declaratory rulings; and administrative hearings.

Section 1125.130 Purpose

- a) *The purpose of the Act is to establish a procedure designed to reverse the trends of increasing costs of health care, including long-term care, resulting from unnecessary construction of health care facilities. This program is established to:*

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) *improve the financial ability of the public to obtain necessary health services, establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public;*
 - 2) *maintain and improve the provision of essential health care services and increase the accessibility of those services to the medically underserved and indigent;*
 - 3) *assure that the reduction and closure of health care services or facilities is performed in an orderly and timely manner, and that these actions are deemed to be in the best interests of the public; and*
 - 4) *assess the financial burden to patients/residents caused by unnecessary health care construction and modification. [20 ILCS 3960/2]*
- b) Decisions regarding proposed new health services and facilities shall be made for reasons having to do with the community health needs in the various parts of the State. The burden of proof on all issues pertaining to an application shall be on the applicant.
- c) The health facilities and services review program shall be administered with the goal of maximizing the efficiency of capital investment and the objectives of:
- 1) Promoting development of more effective methods of delivering long-term care;
 - 2) Improving distribution of LTC facilities and services and ensuring access to needed LTC services for the general public, the medically indigent and similar underserved populations;
 - 3) Controlling the increase of LTC costs;
 - 4) Promoting planning for LTC services at the facility, regional and State levels;
 - 5) Maximizing the use of existing LTC facilities and services that represent the least costly and most appropriate levels of care; and

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 6) Minimizing the unnecessary duplication of LTC facilities and services.

Section 1125.140 Definitions

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Adverse Action" means a disciplinary action taken by Department of Public Health, Centers for Medicare and Medicaid Services (CMMS), or any other State or federal agency against a person or entity that owns and/or operates a licensed or Medicare or Medicaid certified LTC facility in the State of Illinois. These actions include, but are not limited to, all Type A and Type AA violations. As defined in Section 1-129 of the Nursing Home Care Act [210 ILCS 45], a *"Type A violation" means a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility that creates a substantial probability that the risk of death or serious mental or physical harm to a resident will result therefrom or has resulted in actual physical or mental harm to a resident.* As defined in Section 1-128.5 of the Nursing Home Care Act, a *"Type AA violation" means a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility that proximately caused a resident's death.*

"Agency" or "IDPH" means the Illinois Department of Public Health.

"Applicant" means one or more persons, as defined in the Act, who apply for a permit or exemption. See 77 Ill. Adm. Code 1130.220 to determine what parties are necessary for an application.

"Authorized Representative" means a person who has authority to act on behalf of the legal entity or person that is the applicant or permit holder. Authorized representatives are: in the case of a corporation, any of its officers or members of its board of directors; in the case of a limited liability company, any of its managers or members (or the sole manager or member when two or more managers or members do not exist); in the case of a partnership, any of its general partners (or the sole general partner when two or more general partners do not exist); in the case of estates and trusts, any of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and in the case of a sole proprietor, the individual who is the proprietor.

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

"Capital Expenditure" means an expenditure made by or on behalf of an LTC facility (as such a facility is defined in the Act), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part and which exceeds the capital expenditure minimum. For purposes of this definition, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditure minimum. Donations of equipment or facilities to an LTC facility which if acquired directly by such facility would be subject to review under the Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review. [20 ILCS 3960/3]

"Capital Expenditure Minimum" means the dollar amount or value that would require a permit for capital projects and major medical equipment. Capital expenditure minimums are annually adjusted to reflect the increase in construction costs due to inflation under 77 Ill. Adm. Code 1130.310.

"Category of Service" means a grouping by generic class of various types or levels of support functions, equipment, care or treatment provided to patients/residents. A category of service may include subcategories or levels of care that identify a particular degree or type of care within the category of service.

"CMMS" means the federal Centers for Medicare and Medicaid Services.

"Chairman" means the presiding officer of HFSRB.

"Change of Ownership" means a change in the person who has operational control of an existing LTC facility or a change in the person who has ownership or control of an LTC facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control. [20 ILCS 3960/3] Examples of change of ownership include:

a transfer of stock or assets resulting in a person obtaining majority interest (i.e., over 50%) in the person who is licensed or certified (if the

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

facility is not subject to licensure), or in the person who owns or controls the LTC facility's physical plant and capital assets; or

the issuance of a license by IDPH to a person different from the current licensee; or

a change in the membership or sponsorship of a not-for-profit corporation; or

a change of 50% or more of the voting members of a not-for-profit corporation's board of directors, during any consecutive 12 month period, that controls an LTC facility's operations, license, certification (when the facility is not subject to licensing) or physical plant and capital assets; or

a change in the sponsorship or control of the person who is licensed or certified (when the facility is not subject to licensing) to operate, or who owns the physical plant and capital assets of a governmental LTC facility; or

any other transaction that results in a person obtaining control of an LTC facility's operations or physical plant and capital assets, including leases.

"Change in the Bed Count of a Long-Term Care Facility" means a change in an LTC facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. *A permit or exemption shall be obtained prior to the construction or modification of an LTC facility which: changes the bed capacity of an LTC facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility to another by more than 20 beds or 10% of total bed capacity as defined by the State Board, whichever is less, over a 2-year period.* [20 ILCS 3960/5]

"Charity Care" means care provided by an LTC facility for which the provider does not expect to receive payment from the patient/resident or a third party payer. [20 ILCS 3960/3]

"Clinical Service Area" means a department and/or service that is directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the LTC facility [20 ILCS 3960/3]. A clinical service area's physical space shall include those components required under the facility's licensure or Medicare

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

and/or Medicaid certification, and/or as outlined by documentation from the facility as to the physical space required for appropriate clinical practice.

"Combined Service Area Project" means a project that consists of both clinical service areas and non-clinical service areas.

~~"Completion" or "Project Completion" means that the project has been brought to a conclusion as evidenced by one or more of the following events:~~

~~For projects with no cost that are limited to a substantial change in beds in licensed LTC facilities, the date IDPH issues a revised license; or~~

~~For projects with no cost that are limited to a substantial change in beds in LTC facilities or in State-operated facilities, the date the first patient is treated; or~~

~~For projects limited to the establishment of a category of service, the date the first patient is treated; or~~

~~For projects limited to the establishment of an LTC facility, the date the LTC facility is licensed or, if licensure is not required, the date the facility receives Medicare/Medicaid certification; or~~

~~For all other projects including modernization of existing facilities, project completion occurs when all components of the project are fulfilled as stated in the application for permit or exemption; or~~

~~For projects with permits issued with conditions, the date HFSRB deems the conditions have been met.~~

"Completion Date" or "Project Completion Date" means the date established by the applicant for the completion of the project in the approval of the permit or subsequent renewal, ~~as evidenced by one or more of the events cited in the definition of "Completion".~~

"Construction" or "Modification" *means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by an LTC facility, or the purchase or acquisition by or through an LTC facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation or any capital*

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

expenditure made by or on behalf of an LTC facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of an LTC facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act [210 ILCS 9] or a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act [320 ILCS 42] shall be excluded from any obligations under the Act. [20 ILCS 3960/3]

"Contested Case" is defined in Section 1-30 of the Illinois Administrative Procedure Act. [5 ILCS 100/1-30].

"Control" means a person possesses any of the following discretionary and non-ministerial rights or powers:

In the case of an entity, the ability to direct the management and policies of the entity, whether through the voting of securities, corporate membership, contract or otherwise. Examples of control include, without limitation:

holding 50% or more of the outstanding voting securities of an issue;

in the case of an entity that has no outstanding voting securities, having the right to 50% or more of the profits or, in the event of dissolution, the right to 50% or more of the assets of the entity;

having the power to appoint or remove 50% or more of the governing board members of an entity;

having the power to require or approve the use of funds or assets of the entity; or

having the power to approve, amend or modify the entity's bylaws or other governance documents.

In the case of capital assets or real property, the power to direct or cause the direction of the personal property, real property or capital assets that are components of the project (i.e., fixed equipment, mobile equipment, buildings and portions of buildings). Examples of control include, without limitation:

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

ownership of 50% or more in the property or asset;

serving as lessee or sub-lessee.

"Conversion" means a change in the control of an existing LTC facility's physical plant, assets, or operations by such methods as, but not limited to, a change in ownership, acquisition, merger, consolidation, lease, stock transfer, or change in sponsorship. Types of conversion include:

consolidation by combining two or more existing LTC facilities into a new LTC facility, terminating the existence of the existing or original facilities ($A + B = C$). Consolidation results in the establishment of an LTC facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensing or the loss of certification for facilities not subject to licensing;

merger by the absorption of one or more existing LTC facilities into another existing LTC facility. The result of the absorption is that only one facility survives ($A + B = B$). Merger results in the modification (e.g., expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.

"Director" means the Director of the Department of Public Health.

"Due Diligence" means to take such actions toward the completion of a project for which a permit has been issued with that diligence and foresight that persons of ordinary prudence and care commonly exercise under like circumstances. An accidental or unavoidable cause that cannot be avoided by the exercise of due diligence is a cause that reasonably prudent and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

"Entity" means any corporation, company, partnership, joint venture, association, trust, foundation, fund or other legally recognized organization, public body or municipality.

"Establish" or "Establishment" means the construction of a new LTC facility, the licensing of unlicensed buildings or structures as an LTC facility, the replacement

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

of an existing LTC facility on another site, or the initiation of a category of service defined by the Board. [20 ILCS 3960/3]

"Estimated Project Cost" or "Project Cost" means the sum of all costs, including the fair market value of any equipment or other real property (whether acquired by lease, donation, or gift) necessary to complete a project, including:

- preplanning costs;
- site survey and soil investigation fees;
- site preparation costs;
- off-site work;
- construction contracts and contingencies (including demolition);
- capital equipment included in construction contracts;
- architectural and engineering fees;
- consultants and other professional fees that are related to the project;
- capital equipment not in construction contracts;
- bond issuance expenses;
- net interest expense during construction; and
- all other costs that are to be capitalized.

"Exemption" means the classification of projects that are exempt from the Certificate of Need permit review process, but are reviewed under *the procedures and requirements* of HFSRB regarding issuance of exemptions. *An exemption shall be approved when information required by the Board by rule is submitted.* [20 ILCS 3960/6(b)]

"Existing Long-Term Care Facility" means any LTC facility subject to the Act that:

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

has a license issued by IDPH and has provided services within the past 12 months, unless the failure to provide that service is the result of pending license revocation procedures, and has not surrendered or abandoned its license or had its license revoked or voided or otherwise deemed invalid by IDPH; or

is certified under Title XVIII or XIX of the Social Security Act (42 USC 1395); or

is a facility operated by the State of Illinois.

HFSRB NOTE: Projects approved by HFSRB for establishment of an LTC facility that have not been deemed complete in accordance with this Part shall not be considered existing facilities, but the approved number of beds or services shall be recorded in the HFSRB Inventory of Health Care Facilities and Services and Need Determinations, located at the HFSRB website (www.hfsrb.illinois.gov), and shall be counted against any applicable need estimate.

"Ex parte Communication" *means a communication between a person who is not a State Board member or employee that reflects on the substance of a formally filed State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of a pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications. Technical assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Once an application is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file.* [20 ILCS 3960/4.2]

"Fair Market Value" means the dollar value of a project or any component of a project that is accomplished by lease, donation, gifts or any other means that would have been required for purchase, construction or acquisition. Fair market value is documented as follows:

for equipment that is to be leased, statements from the manufacturers as to the purchase price of the equipment;

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

for equipment or other real property that will be a gift or donated, a statement from the donor attesting to the dollar value reported to the Internal Revenue Service pursuant to IRS Document 170;

for existing property (other than equipment) that is to be leased or otherwise acquired, copies of an appraisal performed by a certified appraiser or copies of financial statements detailing actual construction costs if the property is less than three years old; or

for property (other than equipment) that is being or will be constructed and then leased, a statement from the lessor as to the anticipated costs of construction.

"Final Decision" or "Final Administrative Decision" or "Final Determination" means:

the decision by HFSRB to approve or deny an application for permit. Action taken by HFSRB to deny an application for permit is subsequent to an administrative hearing or to the waiver of an administrative hearing; or

the decision by HFSRB on all matters other than the issuance of a permit.

HFSRB NOTE: The decision is final at the close of business of the HFSRB meeting at which the action is taken.

"Final Realized Costs" means all costs that are normally capitalized under generally accepted accounting principles that have been incurred to complete a project for which a permit or exemption was issued. These costs include all expenditures and the dollar or fair market value of any component of the project, whether acquired through lease, donation or gift.

"Hearing Officer" means the person with authority to conduct public hearings and to take all necessary steps to assure the proper completion of public hearings and to assure compliance with requirements of the Act. Responsibilities include: determining the order and time allotment for public testimony; maintaining order; setting and announcing new hearing dates, times and places, as necessary; determining the conclusion of the hearing and assuring that all documents, exhibits and other written materials presented or requested at the hearing are in the hearing officer's custody; and preparing a report for submittal to HFSRB.

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

"HFSRB " or "State Board" means the Illinois Health Facilities and Services Review Board.

"HFSRB Inventory" or "Inventory" means the HFSRB Inventory of Health Care Facilities and Services and Need Determinations, located at HFSRB's website (www.hfsrb.illinois.gov).

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Intent to Deny" means the negative decision of HFSRB, following its initial consideration of an application for permit that failed to receive the number of affirmative votes required by the Act.

"Long-Term Care" or "LTC" means care for patients/residents in a general long-term care ~~or specialized long-term care~~ facility under the jurisdiction of the Board.

General LTC includes the nursing category of service, which provides inpatient treatment for convalescent or chronic disease patients/residents and includes the skilled nursing level of care and/or the intermediate nursing level of care, defined in 77 Ill. Adm. Code 300.

~~Specialized LTC means a classification of categories of service that provide inpatient care primarily for children (ages 0 through 21) or inpatient care for adults who require specialized treatment and care because of mental or developmental disabilities. Specialized LTC includes the following categories of services:~~

~~Chronic Mental Illness (MI) Category of Service. The Chronic MI category of service includes levels of care provided to severely mentally ill clients in a structured setting in a psychiatric unit of a general hospital, in a private psychiatric hospital, or in a State-operated facility primarily in order to facilitate the improvement of their functioning level, to prevent further deterioration of their functioning level, or, in some instances, to maintain their current level of functioning.~~

~~Long Term Care for the Developmentally Disabled Adult (DD-Adult) category of service. This category of service includes levels of care for DD Adults as defined in the Mental Health and~~

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

~~Developmental Disabilities Code [405 ILCS 5] (including those facilities licensed as ICF/DD) that provide an integrated, individually tailored program of services for developmentally disabled adults and provide an active, aggressive and organized program of services directed toward achieving measurable behavioral and learning objectives.~~

~~Long Term Care for the Developmentally Disabled Children category of service. This category of service includes levels of care for DD Children (those residents age 0 through 21 years) as defined in the Illinois Mental Health and Developmental Disabilities Code).~~

~~Long Term Medical Care for Children Category of Service. This category of service includes long term medical services that are provided to those patients/residents age 0-18 years and that provides for residents suffering from chronic medical disabilities.~~

"Major Construction Project" means:

Projects for the construction of new buildings;

Additions to existing facilities;

Modernization projects whose cost is in excess of \$1,000,000 or 10% of the facility's operating revenue, whichever is less; and

such projects as the State Board shall define and prescribe pursuant to the Act. [20 ILCS 3960/5]

"Major Medical Equipment" means medical equipment that is used for the provision of medical and other health services and that costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act (42 USC 1395x) to meet the requirements of section 1861(S)(10) and (11) of that Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans,

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included. [20 ILCS 3906/3]

"Medicaid Certified" or "Medicare Certified" or "Medicaid Certification" or "Medicare Certification" means approval for a facility to receive reimbursement under Title XVIII (Medicare) and/or XIX (Medicaid) of the Social Security Act (42 USC 1395).

"Modification of an Application" or "Modification" means any change to an application during the review period (i.e., prior to a final HFSRB action). These changes include, but are not limited to: changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity when the operating entity is not the applicant, the number of proposed beds, the categories of service to be provided, the cost, the method of financing, the proposed project completion date, the configuration of space within the building, or any change in the person who is the applicant, including the addition or deletion of one or more persons as co-applicants.

HFSRB NOTE: A change of site to a site outside the planning area originally identified in the application is not considered a modification and invalidates the application.

"Newspaper of General Circulation" means newspapers other than those intended to serve a particular, defined population, such as the publications of professional and trade associations.

"Newspaper of Limited Circulation" means a newspaper intended to serve a particular or defined population of a specific geographic area within a Metropolitan Statistical Area such as a municipality, town, village, township or community area, but does not include publications of professional and trade associations. [20 ILCS 3960/8.5(a)]

"Non-clinical Service Area" *means an area for the benefit of the patients/residents, visitors, staff or employees of an LTC facility and not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the LTC facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient/resident, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of*

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers. [20 ILCS 3960/3]

"Non-Substantive Projects" means certain projects that have been defined in 77 Ill. Adm. Code 1110.40, with a review period of 60 days.

"Notification of HFSRB Action" means the transmittal of HFSRB decisions to the applicant or permit or exemption holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.

"Financial Commitment" ~~"Obligation"~~ means the commitment of at least 33% of total funds assigned to cover total project cost, which occurs by:

The actual expenditure of 33% or more of the total project cost; or

The commitment to expend 33% or more of the total project cost by signed contracts or other legal means.

"Operational" means that a permit holder is providing the services approved by HFSRB and, for a new LTC facility or a new category of service, licensure or Medicare and/or Medicaid certification has been obtained and residents/patients are utilizing the facility or equipment or are receiving service.

"Permit" means authorization to execute and complete a project related to an LTC facility, as reviewed and approved by HFSRB and as specified in the Act.

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof. [20 ILCS 3960/3]

"Financial Commitment" ~~"Project Obligation"~~ Date means the date on which the permit holder expended or committed to expend by contract or other legal means at least 33% of the total project cost.

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

"Proposal" or "Project" means any proposed construction or modification of an LTC facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" means *any person that:*

is at least 50% owned, directly or indirectly, by either the LTC facility or a person owning, directly or indirectly, at least 50% of the LTC facility; or

owns, directly or indirectly, at least 50% of the LTC facility; [20 ILCS 3960/3] or

is otherwise controlled or managed by one or more LTC facilities; or

controls or manages the LTC facility; or

otherwise controls or manages the LTC facility; or

is otherwise, directly or indirectly, under common management or control with one or more LTC facilities.

"Review Period" means the time from the date an application for permit or exemption is deemed complete until HFSRB renders its final decision.

"Site" means the physical location of a proposed project and is identified by address or legal property description.

"Square Feet" or "SF" or "Square Footage" means a unit of measure of physical service areas or buildings considered by HFSRB. Departmental Gross Square Feet (DGSF) means the designation of physical areas for departments and services. It consists of the entirety of space dedicated to the use of that department or service, including walls, shafts and circulation. Building Gross Square Feet (BGSF) means the designation of physical area of an entire building. It includes all exterior walls and space within those walls.

"Subcommittee" means the HFSRB Long-Term Care Facility Advisory Subcommittee.

"Subcommittee Chairperson" means the chairperson of the Subcommittee.

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

"Substantially Changes the Scope or Changes the Functional Operation of the Facility" means:

the addition of a category of service;

a change of a material representation made by the applicant in an application for permit or exemption subsequent to receipt of a permit that is relied upon by HFSRB in making its decision. Material representations are those that provide a factual basis for issuance of a permit or exemption and include:

withdrawal or non-participation in the Medicare and/or Medicaid programs;

charge information;

requirements of variances pursuant to Section 1125.560;

other representations made to HFSRB as stipulated or agreed upon in the public record and specified in the application or the permit or exemption approval letter.

"Substantive Projects" means types of projects that are defined in the Act and classified as substantive. *Substantive projects shall include no more than the following:*

Projects to construct a new or replacement facility located on a new site or a replacement facility located on the same site as the original facility and the costs of the replacement facility exceed the capital expenditure minimum.

Projects proposing a new service or discontinuation of a service, which shall be reviewed by the Board within 60 days.

Projects proposing a change in the bed capacity of an LTC facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one facility to another by more than 20 beds or more than 10% of total bed capacity, as

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

defined by the State Board, whichever is less, over a 2 year period. [20 ILCS 3960/12]

"Technical Assistance" means help provided by an employee of HFSRB to a person, LTC facility or HFSRB, and is not considered ex parte communication as defined in Section 4.2 of the Act. Technical assistance may be provided to any person regarding pre-application conferences, the filing of an application, or other request to HFSRB provided that the communication is *not intended to influence any decision on the application*. Technical assistance may be provided for the benefit of HFSRB to clarify issues relevant to an application or other business of HFSRB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. *Once an application or exemption is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file, within 10 business days after the assistance is provided. [20 ILCS 3960/4.2]*

"Temporary Suspension of Facility or Category of Service" means a facility has ceased operation or has ceased to provide a category of service due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster). A facility shall file notice to HFSRB of a temporary suspension of service. See 77 Ill. Adm. Code 1130.240(d).

Section 1125.150 HFSRB Procedural Rules

The Certificate of Need review process and all applicable procedures and requirements are contained in 77 Ill. Adm. Code 1130.

SUBPART B: PLANNING POLICIES

Section 1125.210 General Long-Term Nursing Care Category of Service

a) Planning Areas

The 95 general long-term nursing care planning areas are located within the 11 Health Services Areas (HSAs).

- 1) HSA 1: Planning areas are Boone, Carroll, DeKalb, Jo Daviess, Lee, Ogle, Stephenson, Whiteside and Winnebago Counties.

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) HSA 2: Planning areas are Bureau/Putnam, Henderson/Warren, Marshall/Stark, Fulton, Knox, LaSalle, McDonough, Peoria, Tazewell and Woodford Counties.
- 3) HSA 3: Planning areas are Brown/Schuyler, Calhoun/Pike, Morgan/Scott, Adams, Cass, Christian, Greene, Hancock, Jersey, Logan, Macoupin, Mason, Menard, Montgomery and Sangamon Counties.
- 4) HSA 4: Planning areas are Coles/Cumberland, Champaign, Clark, DeWitt, Douglas, Edgar, Ford, Iroquois, Livingston, McLean, Macon, Moultrie, Piatt, Shelby and Vermilion Counties.
- 5) HSA 5: Planning areas are Alexander/Pulaski, Edwards/Wabash, Gallatin/Hamilton/Saline, Johnson/Massac, Hardin/Pope, Bond, Clay, Crawford, Effingham, Fayette, Franklin, Jackson, Jasper, Jefferson, Lawrence, Marion, Perry, Randolph, Richland, Union, Washington, Wayne, White and Williamson Counties.
- 6) HSA 6: Planning Areas
 - A) 6A: City of Chicago Community Areas Rogers Park, West Ridge, Uptown, Lincoln Square, Edgewater, Edison Park, Norwood Park, Jefferson Park, Forest Glen, North Park, Albany Park, Portage Park, Irving Park and Avondale.
 - B) 6B: City of Chicago Community Areas North Center, Lakeview, Lincoln Park, Near North Side, Loop, Logan Square, West Town, Near West Side, Lower West Side, West Garfield Park, East Garfield Park, North Lawndale, South Lawndale, O'Hare, Dunning, Montclare, Belmont Cragin, Hermosa, Humboldt Park and Austin.
 - C) 6C: City of Chicago Community Areas Near North Side, Armour Square, Douglas, Oakland, Fuller Park, Grand Boulevard, Kenwood, Washington Park, Hyde Park, Woodlawn, South Shore, Chatham, Avalon Park, South Chicago, Burnside, Calumet Heights, Roseland, Pullman, South Deering, East Side, West Pullman, Riverdale, Hegewisch, Garfield Ridge, Archer Heights, Brighton Park, McKinley Park, Bridgeport, New City, West Elson, Gage Park, Clearing, West Lawn, Chicago Lawn, West

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Englewood, Englewood, Greater Grand Crossing, Ashburn,
Auburn Gresham, Beverly, Washington Heights, Mount
Greenwood and Morgan Park.

- 7) HSA 7: Planning Areas
 - A) 7A: Cook County Townships of Barrington, Palatine, Wheeling, Hanover, Schaumburg and Elk Grove.
 - B) 7B: Cook County Townships of Northfield, New Trier, Evanston, Niles and Maine.
 - C) 7C: DuPage County.
 - D) 7D: Cook County Townships of Norwood Park, Leyden, Proviso, River Forest, Oak Park, Riverside, Berwyn and Cicero.
 - E) 7E: Cook County Townships of Lyons, Lemont, Palos, Orland, Stickney, Worth, Calumet, Bremen, Thornton, Rich and Bloom.
- 8) HSA 8: Planning areas are Kane, Lake and McHenry Counties.
- 9) HSA 9: Planning areas are Grundy, Kankakee, Kendall and Will Counties.
- 10) HSA 10: Planning areas are Henry, Mercer and Rock Island Counties.
- 11) HSA 11: Planning areas are Clinton, Madison, Monroe and St. Clair Counties.

- b) Age Groups
For general long-term nursing care, age groups of 0-64, 65-74, and 75 and over.

- c) Utilization Target
Facilities providing a general long-term nursing care service should operate those beds at a minimum annual average occupancy of 90% or higher. Projects involving modernization of an LTC facility shall document an average occupancy of 85% or higher.

- d) Bed Capacity

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

General long-term nursing care bed capacity is the licensed capacity for facilities subject to the Nursing Home Care Act and the total number of LTC beds for a facility as determined in the HFSRB Inventory for facilities not subject to the Nursing Home Care Act.

e) Need Determination

The following methodology is utilized to determine the projected number of nursing care beds needed in a planning area:

- 1) Establish minimum and maximum planning area use rates for the 0-64, the 65-74, and the 75 and over age groups as follows:
 - A) Divide the HSA's base year experienced nursing care patient days for each age group by the base year population estimate for each age group to determine the HSA experienced use rate for each age group;
 - B) the minimum planning area use rate for each age group is 60% of the HSA experienced use rate for each age group, and the maximum planning area use rate for each age group is 160% of the HSA experienced use rate for each age group;
- 2) Divide the planning area's base year experienced nursing care patient days for each age group by the base year population estimate for each group to determine the planning area experienced use rate for each age group;
- 3) Determine the planning area's population projection, which is ~~five~~ 10 years from the base year; the use rate for each age group is as follows:
 - A) If the experienced use rate for an age group is below the minimum use rate, the minimum use rate is the projected use rate for that age group;
 - B) If the experienced use rate for an age group is above the maximum use rate, the maximum use rate is the projected use rate for that age group;
 - C) If the experienced use rate for an age group is above the minimum use rate and below the maximum use rate, the experienced use rate for the age group is the projected use rate for that age group;

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 4) Multiply each age group's projected use rate times the projected population for the age group to determine the projected patient days for each age group;
- 5) Total the projected patient days for the age groups to determine the planning area's total projected patient days;
- 6) Divide the planning area's total projected patient days by the number of days in the projected year to obtain the projected average daily census;
- 7) Divide the projected average daily census by .90 (90% occupancy factor) to obtain the projected planning area bed need;
- 8) Subtract the number of existing beds in the planning area from the projected planning area bed need to determine the projected number of excess (surplus) beds or the projected need for additional (deficit) beds in an area.

Section 1125.220 Specialized Long-Term Care Categories of Service (Repealed)

- a) ~~Categories of Service:~~

- ~~1) Chronic Mental Illness (MI);~~
- ~~2) Long Term Care for the Developmentally Disabled (Adult) (DD-Adult); and~~
- ~~3) Long Term Care for the Developmentally Disabled (Children) (DD-Children);~~

- b) ~~Planning Areas:~~

- ~~1) The State of Illinois is utilized for the MI category of service.~~
 - ~~2) Health Service Areas are utilized for the DD-Children category of service.~~
 - ~~3) For DD-Adult category of service:~~
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ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

~~HSA I, HSA II, HSA III, HSA IV, HSA V, HSA X, HSA XI, and the combined HSAs VI, VII, VIII and IX.~~

- ~~c) Occupancy Targets:~~
 - ~~1) Modernization 80%; Additional Beds 90% for the MI category of service; and~~
 - ~~2) Modernization 80%; Additional Beds 93% for the DD Adult and DD Children categories of service.~~
- ~~d) Bed Capacity: For facilities licensed pursuant to the Nursing Home Care Act, the bed capacity is the licensed bed capacity for the service.~~
- ~~e) Bed Need Determination for the Specialized Categories of Service:~~
 - ~~1) No formula bed need for the MI and DD Children categories of service has been developed. It is the responsibility of the applicant to document the need for the service by complying with all applicable review criteria contained in 77 Ill. Adm. Code 1110.Subpart S.~~
 - ~~2) Bed need for the DD Adult category of service is calculated in two parts:~~
 - ~~A) For facilities licensed as ICF/DD 16 bed or fewer, total bed need and the number of additional beds needed are determined by dividing the planning area's projected adult developmentally disabled population by 21.4 to determine the total number of beds needed for developmentally disabled adult residents in the planning area. The number of additional beds needed or excess beds is determined by subtracting the number of existing beds in ICF/DD 16 bed or fewer facilities from the total number of beds needed for developmentally disabled adult residents in the planning area.~~
 - ~~B) For facilities with more than 16 beds, no bed need formula has been established.~~

Source: Repealed at 38 Ill. Reg., effective _____.

SUBPART C: GENERAL INFORMATION REQUIREMENTS

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 1125.310 Introduction

The information requirements contained in this Subpart are applicable to all projects. An applicant shall document the *qualifications, background, character and financial resources to adequately provide a proper service for the community* and also demonstrate that the project promotes the *orderly and economic development of LTC facilities in the State of Illinois that avoids unnecessary duplication of facilities or service*. [20 ILCS 3960/2]

Section 1125.320 Purpose of the Project – Information Requirements

The applicant shall document that the project will provide health services that improve the long-term nursing care or well-being of the market area population to be served. The applicant shall define the planning area or market area, or other, per the applicant's definition.

- a) The applicant shall address the purpose of the project, i.e., identify the issues or problems that the project is proposing to address or solve. Information to be provided shall include, but is not limited to, identification of existing problems or issues that need to be addressed, as applicable and appropriate for the project. Examples of this information include:
 - 1) The area's demographics or characteristics (e.g., rapid area growth rate, increased aging population) that may affect the need for services in the future;
 - 2) The population's morbidity or mortality rates;
 - 3) The incidence of various diseases in the area;
 - A) The population's financial ability to access LTC (e.g., financial hardship, increased number of charity care patients/residents, changes in the area population's insurance or managed care status);
 - B) The physical accessibility to necessary LTC (e.g., new highways, other changes in roadways, changes in bus/train routes or changes in housing developments).
- b) The applicant shall cite the source of the information (e.g., local health department Illinois Project for Local Assessment of Need (IPLAN) documents,

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Public Health Futures, local mental health plans, or other health assessment studies from governmental or academic and/or other independent sources).

- c) The applicant shall detail how the project will address or improve the issues listed in subsection (a), as well as the population's health status and well-being. Further, the applicant shall provide goals with quantified and measurable objectives with specific time frames that relate to achieving the stated goals.
- d) For projects involving modernization, the applicant shall describe the conditions being upgraded. For facility projects, the applicant shall include statements of age and condition and any regulatory citations. For equipment being replaced, the applicant shall also include repair and maintenance records.

Section 1125.330 Alternatives to the Proposed Project – Information Requirements

The applicant shall document that the proposed project is the most effective or least costly alternative for meeting the LTC needs of the population to be served by the project.

- a) Alternative options shall be addressed. Examples of alternative options include:
 - 1) Proposing a project of greater or lesser scope and cost;
 - 2) Pursuing a joint venture or similar arrangement with one or more providers;
 - 3) Developing alternative settings to meet all or a portion of the project's intended purposes; and
 - 4) Utilizing other LTC resources that are available to serve all or a portion of the population proposed to be served by the project.
- b) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of cost, resident/patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation.
- c) The applicant shall provide empirical evidence, including quantified outcome data that verifies improved quality of care, as available.

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: GENERAL LONG-TERM CARE – REVIEW CRITERIA

Section 1125.510 Introduction

- a) This Subpart applies to projects involving General Long-Term Care. Applicants proposing to establish, expand or modernize the General Long-Term Care category of service shall comply with the applicable subsections of this Section, as follows:

PROJECT TYPE	REQUIRED REVIEW CRITERIA	
	Section	Subject
Establishment of Services or Facility	.520	Background of the Applicant
	.530(a)	Bed Need Determination
	.530(b)	Service to Planning Area Residents
	.540(a) or (b) + (c) + (d) or (e)	Service Demand – Establishment of General Long Term Care
	.570(a) & (b)	Service Accessibility
	.580(a) & (b)	Unnecessary Duplication & Maldistribution
	.580(c)	Impact of Project on Other Area Providers
	.590	Staffing Availability
	.600	Bed Capacity
	.610	Community Related Functions
	.620	Project Size
	.630	Zoning
	.640	Assurances
Expansion of Existing Services	.520	Background of the Applicant
	.530(b)	Service to Planning Area Residents
	.550(a) + (b) or (c)	Service Demand – Expansion of General Long-Term Care
	.590	Staffing Availability
	.600	Bed Capacity
	.620	Project Size

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

	.640	Assurances
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Continuum of Care – Establishment or Expansion	.520	Background of the Applicant
	.560(a)(1) & (3)	Continuum of Care Components
	.590	Staffing Availability
	.600	Bed Capacity
	.610	Community Related Functions
	.630	Zoning
	.640	Assurances

Defined Population – Establishment or Expansion	.520	Background of the Applicant
	.560(b)(1) & (2)	Defined Population to be Served
	.590	Staffing Availability
	.600	Bed Capacity
	.610	Community Related Functions
	.630	Zoning
	.640	Assurances

Modernization	.650(a)	Deteriorated Facilities
	.650(b) & (c)	Documentation
	.650(d)	Utilization
	.600	Bed Capacity
	.610	Community Related Functions
	.620	Project Size
	.630	Zoning

- b) If the proposed project involves the replacement of a facility or service onsite, the applicant shall comply with the requirements listed in Section 1125.650 (Modernization) plus Section 1125.640.
- c) If the proposed project involves the replacement of a facility or service on a new site, the applicant shall comply with the requirements listed in the chart in subsection (a) under Establishment of Services or Facility.
- d) If the proposed project involves the replacement of a facility or service (onsite or new site), the number of beds being replaced shall not exceed the number justified by historical occupancy rates for each of the latest two years, unless additional

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

beds can be justified per the criteria for Expansion of Existing Services in the chart in subsection (a).

- e) All applicants shall address the requirements listed in Section 1125.520 (Background of the Applicant).

Section 1125.520 Background of the Applicant – Review Criterion

All applicants shall comply with the requirements of this Section, as follows:

- a) An applicant must demonstrate that it is fit, willing and able, and *has the qualifications, background and character, to adequately provide a proper standard of LTC service for the community.* [20 ILCS 3960/6] In evaluating the qualifications, background and character of the applicant, HFSRB shall consider whether adverse action has been taken against the applicant, or against any LTC facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application. An LTC facility is considered "owned or operated" by every person or entity that owns, directly or indirectly, an ownership interest. If any person or entity owns any option to acquire stock, the stock shall be considered to be owned by that person or entity. (See Section 1125.140 for the definition of "adverse action".)
- b) Examples of Facilities Owned or Operated by an Applicant
 - 1) The applicant, Partnership ABC, owns 60% of the shares of Corporation XYZ that manages the Good Care Nursing Home under a management agreement. The applicant, Partnership ABC, owns or operates Good Care Nursing Home.
 - 2) The applicant, Healthy LTC, a corporation, is a subsidiary of Universal Health, the parent corporation of Healthcenter Services, its wholly-owned subsidiary. The applicant, Healthy LTC, owns and operates Healthcenter Services.
 - 3) Dr. Wellcare is the applicant. His wife is the director of a corporation that owns an LTC. The applicant, Dr. Wellcare, owns or operates the LTC.
 - 4) Drs. Faith, Hope and Charity own 40%, 35% and 10%, respectively, of the shares of Healthfair, Inc., a corporation, which is the applicant. Dr. Charity owns 45% and Drs. Well and Care each own 25% of the shares of

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

XYZ Nursing Home, Inc. The applicant, Healthfair, Inc., owns and operates XYZ Nursing Home, Inc.

- c) The applicant shall submit the following information:
 - 1) A listing of all LTC facilities currently owned and/or operated by the applicant, including licensing, certification and accreditation identification numbers, as applicable;
 - 2) A certified listing from the applicant of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application; and
 - 3) Authorization permitting HFSRB and IDPH access to any documents necessary to verify the information submitted, including, but not limited to: official records of IDPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. Failure to provide the authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.
- d) If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this Section. In these instances, the applicant shall attest that the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed to update and/or clarify data.

Section 1125.530 Planning Area Need – Review Criterion

The applicant shall document that the number of beds to be established or added is necessary to serve the planning area's population, based on the following:

- a) Bed Need Determination
 - 1) The number of beds to be established for general LTC is in conformance with the projected bed need specified and reflected in the latest updates to

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

the HFSRB Inventory. The projected number of beds needed are posted in the “LTC Bed Inventory” on the HFSRB website www.hrfsb.illinois.gov.

- 2) The number of beds proposed shall meet or exceed the 90% occupancy standard specified in Section 1125.210(c).
- b) Service to Planning Area Residents
- 1) Applicants proposing to establish or add beds shall document that the primary purpose of the project will be to provide necessary LTC to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.
 - 2) Applicants proposing to add beds to an existing general LTC service shall provide resident/patient origin information for all admissions for the last 12-month period, verifying that at least 70 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 70 50% of the projected resident volume will be from residents of the area.
 - 3) Applicants proposing to expand an existing general LTC service shall submit resident/patient origin information by zip code, based upon the resident's/patient's legal residence (other than an LTC facility).

Section 1125.540 Service Demand – Establishment of General Long-Term Care

- a) The number of beds proposed to establish a new general long-term care service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or if the applicant proposes to establish a new LTC facility, the applicant shall submit projected referrals. The applicant shall document subsection (c) and subsection (d) or (e).
- b) If the applicant is not an existing facility and proposes to establish a new general LTC facility, the applicant shall submit the number of annual projected referrals, as required in subsection (d) or (e).
- c) Historical Referrals

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

If the applicant is an existing facility and is proposing to establish this category of service, the applicant shall document the number of referrals to other facilities, for each proposed category of service, for each of the latest two years.

Documentation of the referrals shall include: resident/patient origin by zip code; name and specialty of referring physician or identification of another referral source; and name and location of the recipient LTC facility.

d) Projected Referrals

An applicant proposing to establish a category of service or establish a new LTC facility shall submit the following:

- 1) Letters from referral sources (hospitals, physicians, social services and others) that attest to total number of prospective residents (by zip code of residence) who have received care at existing LTC facilities located in the area during the 12-month period prior to submission of the application. Referral sources shall verify their projections and the methodology used;
- 2) An estimated number of prospective residents whom the referral sources will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the referral sources' documented historical LTC caseload. The percentage of project referrals used to justify the proposed establishment expansion cannot exceed the historical percentage of applicant market share, within a 24-month period after project completion;
- 3) Each referral letter shall include the notarized signature of ~~contain~~ the referral ~~source~~ source's Chief Executive ~~Officer~~ Officer's notarized signature, the typed or printed name of the referral source, and the referral source's address; and
- 4) Verification by the referral sources that the prospective resident referrals have not been used to support another pending or approved Certificate of Need (CON) application for the subject services.

e) Projected Service Demand – Based on Rapid Population Growth

If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually within the latest 24-month period), the projected service demand shall be determined as follows:

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) The applicant shall define the facility's market area based upon historical resident/patient origin data by zip code or census tract;
- 2) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year, for county, incorporated place, township or community area, by the U.S. Bureau of the Census or IDPH;
- 3) Projections shall be for a maximum period of 10 years from the date the application is submitted;
- 4) Historical data used to calculate projections shall be for a number of years no less than the number of years projected;
- 5) Projections shall contain documentation of population changes in terms of births, deaths and net migration for a period of time equal to or in excess of the projection horizon;
- 6) Projections shall be for total population and specified age groups for the applicant's market area, as defined by HFSRB, for each category of service in the application (see the HFSRB Inventory); and
- 7) Documentation on projection methodology, data sources, assumptions and special adjustments shall be submitted to HFSRB.

Section 1125.550 Service Demand – Expansion of General Long-Term Care

The number of beds to be added at an existing facility is necessary to reduce the facility's experienced high occupancy and to meet a projected demand for service. The applicant shall document subsection (a) and either subsection (b) or (c).

a) Historical Service Demand

- 1) An average annual occupancy rate that has equaled or exceeded occupancy standards for general LTC, as specified in Section 1125.210(c), for each of the latest two years.
- 2) If prospective residents have been referred to other facilities in order to receive the subject services, the applicant shall provide documentation of the referrals, including completed applications that could not be accepted

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

due to lack of the subject service and documentation from referral sources, with identification of those patients by initials and date.

- b) Projected Referrals
The applicant shall provide documentation as described in Section 1125.540(d).
- c) Projected Service Demand – Based on Rapid Population Growth
If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually within the latest 24-month period), the projected service demand shall be determined as described in Section 1125.540 (e).

Section 1125.560 Variances to Computed Bed Need

- a) Continuum of Care
The applicant proposing a continuum of care project shall demonstrate the following:
 - 1) The project will provide a continuum of care for a geriatric population that includes independent living and/or congregate housing (such as unlicensed apartments, high rises for the elderly and retirement villages) and related health and social services. The housing complex shall be on the same site as the health facility component of the project.
 - 2) The proposal shall be for the purposes of and serve only the residents of the housing complex and shall be developed either after the housing complex has been established or as a part of a total housing construction program, provided that the entire complex is one inseparable project, that there is a documented demand for the housing, and that the licensed beds will not be built first, but will be built concurrently with or after the residential units.
 - 3) The applicant shall demonstrate that:
 - A) The proposed number of beds is needed. Documentation shall consist of a list of available patients/residents needing the proposed project. The proposed number of beds shall not exceed one licensed LTC bed for every five apartments or independent living units;

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) There is a provision in the facility's written operational policies assuring that a resident of the retirement community who is transferred to the LTC facility will not lose his/her apartment unit or be transferred to another LTC facility solely because of the resident's altered financial status or medical indigency; and
 - C) That admissions to the LTC unit will be limited to current residents of the independent living units and/or congregate housing.
- b) Defined Population
- The applicant proposing a project for a defined population shall provide the following:
- 1) The applicant shall document that the proposed project will serve a defined population group of a religious, fraternal or ethnic nature from throughout the entire health service area or from a larger geographic service area (GSA) proposed to be served and that includes, at a minimum, the entire health service area in which the facility is or will be physically located.
 - 2) The applicant shall document each of the following:
 - A) A description of the proposed religious, fraternal or ethnic group proposed to be served;
 - B) The boundaries of the GSA;
 - C) The number of individuals in the defined population who live within the proposed GSA, including the source of the figures;
 - D) That the proposed services do not exist in the GSA where the facility is or will be located;
 - E) That the services cannot be instituted at existing facilities within the GSA in sufficient numbers to accommodate the group's needs. The applicant shall specify each proposed service that is not available in the GSA's existing facilities and the basis for determining why that service could not be provided.

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- F) That at least 85% of the residents of the facility will be members of the defined population group. Documentation shall consist of a written admission policy insuring that the requirements of this subsection (b)(2)(F) will be met.
- G) That the proposed project is either directly owned or sponsored by, or affiliated with, the religious, fraternal or ethnic group that has been defined as the population to be served by the project. The applicant shall provide legally binding documents that prove ownership, sponsorship or affiliation.

Section 1125.570 Service Accessibility

The number of beds being established or added for each category of service is necessary to improve access for planning area residents.

- a) Service Restrictions
The applicant shall document that at least one of the following factors exists in the planning area, as applicable:
 - 1) The absence of the proposed service within the planning area;
 - 2) Access limitations due to payor status of patients/residents, including, but not limited to, individuals with LTC coverage through Medicare, Medicaid, managed care or charity care;
 - 3) Restrictive admission policies of existing providers;
 - 4) ~~The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;~~
 - 5) For purposes of this Section 1125.570 only, all services within the 45-minute normal travel time meet or exceed the occupancy standard specified in Section 1125.210(c).
- b) Supporting Documentation
The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) The location and utilization of other planning area service providers;
- 2) Patient/resident location information by zip code;
- 3) Independent time-travel studies;
- 4) Certification of a waiting list;
- 5) Admission restrictions that exist in area providers;
- 6) An assessment of area population characteristics that document that access problems exist;
- 7) Most recently published IDPH Long Term Care Facilities Inventory and Data (see www.hfsrb.illinois.gov).

Section 1125.580 Unnecessary Duplication/Maldistribution

- a) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:
 - 1) A list of all zip code areas that are located, in total or in part, within 30 minutes normal travel time of the project's site;
 - 2) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois); and
 - 3) The names and locations of all existing or approved LTC facilities located within 30 minutes normal travel time from the project site that provide the categories of bed service that are proposed by the project.
- b) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, beds and services characterized by such factors as, but not limited to:
 - 1) A ratio of beds to population that exceeds one and one-half times the State average;

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the occupancy standard established pursuant to Section 1125.210(c); or
 - 3) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above occupancy standards.
- c) The applicant shall document that, within 24 months after project completion, the proposed project:
- 1) Will not lower the utilization of other area providers below the occupancy standards specified in Section 1125.210(c); and
 - 2) Will not lower, to a further extent, the utilization of other area facilities that are currently (during the latest 12-month period) operating below the occupancy standards.

Section 1125.590 Staffing Availability

The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that staffing requirements of licensure, certification and applicable accrediting agencies can be met. ~~In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.~~

~~Section 1125.600 Bed Capacity~~

~~The maximum bed capacity of a general LTC facility is 250 beds, unless the applicant documents that a larger facility would provide personalization of patient/resident care and documents provision of quality care based on the experience of the applicant and compliance with IDPH's licensure standards (77 Ill. Adm. Code: Chapter I, Subchapter c (Long Term Care Facilities)) over a two-year period.~~

Section 1125.610 Community Related Functions

The applicant shall document cooperation with organizations and other providers in the community; and the receipt of the endorsement of community groups in the town or municipality where the facility is or is proposed to be located, such as, but not limited to, social, economic or

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

governmental organizations or other concerned parties or groups. Documentation shall consist of copies of all signed letters of agreement; and letters of support from those organizations.

Section 1125.620 Project Size – Review Criterion

The applicant shall document that the amount of physical space proposed for the project is necessary and not excessive. The proposed gross square footage (GSF) cannot exceed the GSF standards of Appendix A, unless the additional GSF can be justified by documenting one of the following:

- a) Additional space is needed due to the scope of services provided, justified by clinical or operational needs, as supported by published data or studies;
- b) The existing facility's physical configuration has constraints or impediments and requires an architectural design that results in a size exceeding the standards of Appendix A;
- c) The project involves the conversion of existing bed space that results in excess square footage.

Section 1125.630 Zoning

The applicant shall document one of the following:

- a) The property to be utilized has been zoned for the type of facility to be developed;
- b) Zoning approval has been received; or
- c) A variance in zoning for the project is to be sought.

Section 1125.640 Assurances

- a) The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after the project completion, the applicant will achieve and maintain the occupancy standards specified in Section 1125.210(c). ~~for each category of service involved in the proposal.~~
- b) For beds that have been approved based upon representations for continuum of care (Section 1125.560(a)) or defined population (Section 1125.560(b)), the facility shall provide assurance that it will maintain admissions limitations as

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

specified in those Sections for the life of the facility. To eliminate or modify the admissions limitations, prior approval of HFSRB will be required.

Section 1125.650 Modernization

- a) If the project involves modernization of a category of LTC bed service, the applicant shall document that the bed areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:
 - 1) High cost of maintenance;
 - 2) Non-compliance with licensing or life safety codes;
 - 3) Changes in standards of care (e.g., private versus multiple bed rooms); or
 - 4) Additional space for diagnostic or therapeutic purposes.
- b) Documentation shall include the most recent:
 - 1) IDPH and CMMS inspection reports; and
 - 2) Accrediting agency reports.
- c) Other documentation shall include the following, as applicable to the factors cited in the application:
 - 1) Copies of maintenance reports;
 - 2) Copies of citations for life safety code violations; and
 - 3) Other pertinent reports and data.
- d) Projects involving the replacement or modernization of a category of service or facility shall meet or exceed the occupancy standard, as specified in Section 1125.210(c).

SUBPART E: SPECIALIZED LONG-TERM CARE – REVIEW CRITERIA **(Repealed)**

Section 1125.710 Introduction **(Repealed)**

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

~~Section 1125.720 contains review criteria that pertain to the Specialized Long Term Care Category of Service. These review criteria are utilized in addition to the General Information Requirements outlined in Subpart C and any other applicable review criteria outlined in Subpart F. These review criteria shall apply to all specialized LTC projects in the review process, at the time they become effective, and to all subsequent applications relating to specialized LTC.~~

Section 1125.720 Specialized Long-Term Care – Review Criteria (Repealed)

- a) ~~Facility Size—Review Criterion. The maximum unit size is 100 beds, unless the project is for a State-operated facility or for the long-term medical care for children category of service.~~
- b) ~~Community Related Functions—Review Criterion. The applicant shall document the written endorsement of community groups and shall include the following:~~
 - 1) ~~a detailed description of the steps taken to inform and receive input from the public, including those community members who live in close proximity to the proposed facility's location;~~
 - 2) ~~endorsements from social service, social and economic organizations; and~~
 - 3) ~~support from municipal officials and other elected officials representing the area in which the proposed facility is located.~~
- e) ~~Availability of Ancillary and Support Programs—Review Criterion. An applicant proposing the establishment of an ICF/DD facility of 16 beds or fewer must document that the community has the necessary support services available to provide care to the proposed facility's residents. The documentation must include:~~
 - 1) ~~a copy of the letter, sent by certified mail, return receipt requested, to each of the day programs in the area informing them of the proposed project and requesting their comments regarding the impact of the proposed project on their programs. The applicant shall also provide copies of the responses received to these letters;~~
 - 2) ~~a description of the transportation services available to the proposed residents;~~
 - 3) ~~a description of the specialized services, other than day programs, available to the proposed residents;~~

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 4) ~~a description of the availability of community activities for the proposed facility's residents, e.g., movie theaters, bowling alleys, etc.; and~~
- 5) ~~documentation of the availability of a community workshop to serve the residents.~~
- d) ~~Recommendations from State Departments — Review Criterion. An applicant proposing a facility for the developmentally disabled must document contact with the Department of Human Services and the Department of Healthcare and Family Services. Documentation must include proof that a request has been submitted to each Department requesting that they determine the project's consistency with the long-range goals and objectives of those Departments and requesting the identification of individuals in need of the service. The Departments' responses should address, on both a statewide and a planning-area basis, whether the proposed project meets the Department's planning objectives regarding the size, type and number of beds proposed, whether the project conforms or does not conform to each Department's plan, and how the project assists or hinders each Department in achieving its planning objectives. Such a request must be made by certified mail, return receipt requested, and must occur within a 60-day period prior to the submission of the application.~~
- e) ~~Long-Term Medical Care for Children Category of Service (Only) — Review Criterion. The applicant must document the following:~~
 - 1) ~~the planning area served by the facility and the size of the specialized population (age 0-18 years) to be served within that geographic area. Documentation must include, but is not limited to, any reports or studies showing the points of origin of patients/residents admitted to the facility, preferably for the latest 12-month period for which data is available;~~
 - 2) ~~identification of the special programs and/or services to be provided or currently offered by the applicant and the relationship of the programs to the needs of the specialized population;~~
 - 3) ~~insufficient service capability currently exists to meet this need; and~~
 - 4) ~~the number of beds in the proposed project is needed. Provide documentation that the proposed project will achieve, within the first year of operation, an occupancy of at least 90%.~~

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- f) ~~Zoning—Review Criterion. The applicant must document that:~~
- 1) ~~the property to be utilized has been zoned for the type of facility to be developed; or~~
 - 2) ~~zoning approval has been received; or~~
 - 3) ~~a certificate of need is required by the local zoning authority before zoning can be approved. This documentation shall include a letter from the appropriate zoning official indicating that such a requirement exists.~~
- g) ~~Establishment of Chronic Mental Illness—Review Criterion. Documentation shall consist of a narrative statement detailing the scope of system changes that have brought about the need for the project and historical utilization of facilities involved. The applicant must document that:~~
- 1) ~~all beds will be operated by the State of Illinois;~~
 - 2) ~~the resident population and type of resident/patient served has changed, necessitating the establishment or expansion of services in order to meet the needs of the facility's residents;~~
 - 3) ~~the project represents redistribution of existing beds from another facility due to closure of the facility or unit; and~~
 - 4) ~~admissions from the general public have increased over the last two-year period and the expansion is necessary in order to adequately serve the residents of the facility and the general public.~~
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- h) ~~Establishment of Beds, Developmentally Disabled Adult Category of Service—Review Criterion. Any proposed project to establish a facility of 16 beds or fewer must be located in a planning area where a need for additional beds is calculated as shown in Section 1125.220(e), unless the applicant can document compliance with the requirements for a variance to the computed bed need in subsection (i) of this Section.~~
- i) ~~Variance to Computed Bed Need for Establishment of Beds, Developmentally Disabled Adult Category of Service, for Placement of Residents from Department~~

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

~~of Human Services (DHS) Operated Beds—Review Criterion. The applicant must document all of the following:~~

- ~~1) That each of the residents proposed to be served:~~
 - ~~A) currently resides in a DHS-operated facility and has at least one interested family member residing in the proposed planning area or has an interested family member who resides out of state within 15 miles of the proposed planning area boundary; or~~
 - ~~B) has resided in a DHS-operated facility physically located in the proposed project's planning area for at least the last 2 years, and the consent of the resident's legal guardian has been obtained for the relocation.~~
- ~~2) All of the existing 16-bed or fewer facilities in the planning area are occupied at or above the 93% target occupancy rate or those facilities have refused to accept residents referred from DHS-operated facilities. Documentation of each refusal must include the following:~~
 - ~~A) a letter from DHS stating the number of times in the last 12 months the facility or facilities have refused to accept referrals of DHS-operated facility residents, including the name of the facility, the date of the refusal, and the reasons cited for the refusals, if any;~~
 - ~~B) a copy of the letter, sent by certified mail, return receipt requested, to each of the underutilized facilities in the area asking if they accept referrals from DHS-operated facilities, listing the dates of each past refusal, and requesting an explanation of the basis for the refusal in each instance;~~
 - ~~C) copies of the responses to the letters required by subsections (i)(2)(a) and (b); and~~
 - ~~D) a letter from DHS indicating that each of the residents to be referred to the proposed facility has been refused admission at all of the other 16-bed or fewer facilities in the planning area.~~
- ~~3) That the proposed relocation of a resident will result in cost savings to the State.~~

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 4) ~~That the facility will only accept future referrals from the DHS-operated facility in the planning area if a bed is available.~~
- 5) ~~An explanation of how the proposed facility conforms with or deviates from the DHS comprehensive long-range development plan for developmental disabilities services.~~
- j) ~~State Board Consideration of Public Hearing Testimony—Review Criterion. If public hearing testimony is presented that indicates that one or more facilities in the planning area have available beds, and are willing to accept DHS referrals, HFSRB shall notify DHS and request that DHS contact the facility or facilities and attempt to place residents in the available beds, thereby reducing the need for the proposed additional beds. DHS shall notify HFSRB of the results of these placement efforts within 45 days after the date of HFSRB advice. If DHS' response is not received by HFSRB within the specified time period, HFSRB shall assume that the patients/residents were placed appropriately and that the need for the additional beds no longer exists. If the existing facility or facilities refuses to accept the referrals, HFSRB shall be notified by DHS of the refusal and of any rationale for the refusal provided to DHS by the refusing facility. This material shall then be forwarded to the Board for its consideration. The review period set forth in 77 Ill. Adm. Code 1130.610(b) may be extended by HFSRB for a period not to exceed 60 days.~~

Source: Repealed at 38 Ill. Reg._____, effective_____.

SUBPART F: FINANCIAL AND ECONOMIC FEASIBILITY – REVIEW CRITERIA

Section 1125.800 Estimated Total Project Cost

- a) All applicants shall address the requirements listed in this Section, as applicable. The applicant shall provide project cost information for each of the following components as is applicable. When a project or any component of a project is to be accomplished by lease, donation, gift or any other means, the fair market value or dollar value that would have been required for purchase, construction or acquisition shall be included in the estimated total project cost.
 - 1) Preplanning costs – includes costs incurred prior to the submission of an application, such as development and feasibility studies, market studies, legal fees, bid solicitation, etc.;

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) Site survey and soil investigation fees – includes costs for surrounding surveying of a proposed project site and resulting soil investigation fees;
- 3) Site preparation – includes costs of rental equipment for earthwork, concrete, lifting and hoisting, site drainage, utilities, demolition of existing structures, clearing, grading and earthwork;
- 4) Off-site work – includes costs of drainage, pipes, utilities, sewage, roads and walks;
- 5) Construction and modernization contracts – includes expenses covered under the construction contract, including major medical and other fixed equipment, contractor's overhead and profit;
- 6) Contingencies – means an allowance for unforeseeable events relating to construction or modernization;
- 7) Architectural & engineering fees – includes fees associated with the development and implementation of drawings and design materials for a proposed project;
- 8) Consulting and other fees – includes charges for the services of various types of consulting and professional expertise, including environmental impact, acoustical studies, computer software fees, etc.;
- 9) Movable capital equipment not in construction contracts – includes the cost of all movable capital equipment, including any movable major medical equipment and the cost of installation of the equipment, excluding any trade-in allowances on existing equipment;
- 10) Bond issuance expense – includes all costs associated with the issuance of bonds to finance a project, including issuer's fees, bond counsel's fees, official statements (feasibility study), official statement printing, printing of bonds, survey of the collateral site, title insurance to property, auditor's fees, trustee fees, underwriters' discount and government fees (if applicable);
- 11) Net interest expense during construction – means the difference between interest earned on funds for construction and interest expense on the amount of borrowed funds;

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 12) Other costs to be capitalized – includes miscellaneous fees and working capital expenses related to the project; and
- 13) Acquisition of buildings or other property – includes the cost incurred (or the fair market value) for the acquisition of buildings or property for the project. Any acquisition that has occurred within two years from the date the application for permit is submitted must be included as part of project costs.

b) Related Cost Data

- 1) Land Acquisition Cost – The applicant shall provide the purchase price or fair market value, whichever is applicable, for the acquisition of land that is required in order to undertake the project. Acquisition of land is not a capital expenditure and is not included as part of project costs.
- 2) Operating Start-Up Cost – The applicant shall provide a schedule of estimated non-capitalized operating start-up costs and an estimate of any initial operating deficit.
HFSRB NOTE: Any capitalized costs that are related to the start-up costs of a facility must be included in the total estimated project cost.
- 3) Construction and Modernization Costs and Schedule – The applicant shall provide a construction or project completion schedule that details the anticipated dates and percent of project construction or modernization completion at the 25th, 50th, 75th, 95th and 100th percentile of project funds expended.
- 4) Debt Service Relief Fund – Applicants shall provide the amount that will be placed in a debt service reserve fund and shall also provide the terms and conditions of uses of the fund.

c) Information Requirements for Financial Feasibility

- 1) The applicant shall provide (for the LTC facility or for the person who controls the LTC facility) either documentation of a U.S. Department of Housing and Urban Development (HUD) insured mortgage commitment, historical financial statements, or evidence of financial resources to fund the project.

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) Historical Financial Statements – The applicant shall provide (for the LTC facility or for the person who controls the LTC facility) the most recent three years' financial statements (if available) that include the following:
 - A) Balance sheet;
 - B) Income statement;
 - C) Changes in fund balance; and
 - D) Change in financial position.
- 3) Projected Capital Costs – The applicant must provide the annual projected capital costs (depreciation, amortization and interest expense) for:
 - A) The first full fiscal year after project completion; or
 - B) The first full fiscal year when the project achieves or exceeds the average occupancy rate in the market area (or target occupancy), whichever is later.
- 4) Projected Operating Costs – The applicant shall provide projected operating costs (excluding depreciation and stated in current dollars based on the full-time equivalents (FTEs) and other resource requirements) for the first full fiscal year after project completion or the first full fiscal year when the project achieves or exceeds the average occupancy rate in the market area (or target occupancy), whichever is later, including:
 - A) Annual operating costs; and
 - B) Annual operating costs change (increase or decrease) attributable to the project.
- 5) Availability of Funds – The applicant shall document that financial resources will be available and be equal to or exceed the estimated total project cost and any related cost. An applicant that has no documented HUD insured mortgage commitment shall document that the project and related costs will be:

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- A) Funded in total with cash and equivalents, including investment securities, unrestricted funds, and funded depreciation as currently defined by the Medicare statute (42 USC 1395 et seq.); or
- B) Funded in total or in part by borrowing because:
 - i) a portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order that the current ratio does not fall below 2.0 times; or
 - ii) Borrowing is less costly than the liquidation of existing investments.
- 6) Operating Start-up Costs – The applicant shall document that financial resources will be available and be equal to or exceed any start-up expenses and any initial operating deficit.
- 7) Financial Viability – The applicant shall demonstrate the financial feasibility of the project based upon the projection of reasonable Medicare, Medicaid and private pay charges, expenses of operation, and staffing patterns relative to other facilities in the market area in which the proposed project will be located.
- 8) Previous Certificate of Need Projects – The applicant shall describe its previous record of implementing certificate of need-approved LTC projects.
- 9) Financial and Economic Review Standard Ratios for New Facilities – The proposed project shall comply with the ratio standards cited in Appendix B. Applicants not in compliance with any of the viability ratios shall document the reasons for non-compliance.

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 1125.APPENDIX A Project Size Standards – Square Footage and Utilization

The following standards apply to new construction, the development of freestanding facilities, modernization, and the development of facilities in existing structures, including the use of leased space. For new construction, the standards are based on the inclusion of all building components and are expressed in building gross square feet (BGSF). For modernization projects, the standards are based upon interior build-out only and are expressed in departmental gross square feet (DGSF). Spaces to be included in the applicant's determination of square footage shall include all functional areas minimally required for the applicable service areas, by the appropriate rules, required for IDPH licensure and/or federal certification and any additional spaces required by the applicant's operational program.

Service Areas	Square Feet/Unit	Annual Utilization/Unit
General Long-Term Care	435-713 BGSF/Bed 350-570 DGSF/Bed	See Section 1125.210(c)

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 1125.APPENDIX B Financial and Economic Review Standards

a) Reasonableness of Project and Related Costs Standards

- 1) **Preplanning**
Costs shall not exceed 1.8% of construction and modernization contracts plus contingencies plus equipment costs.
- 2) **Site Survey and Preparation**
Costs shall not exceed 5% of construction and contingency costs.
- 3) **New Construction and Modernization Costs per Gross Square Foot (GSF)**
Hospital and long-term care (LTC) cost standards are derived from the RSMeans Building Construction Cost Data (Means) publication (RSMeans, 63 Smiths Lane, PO Box 800, Kingston MA 02364-9988, 800/334-3509; 2008, no later amendments or editions included) and will be adjusted (for inflation and location) for each project to the current year (www.rsmeans.com). Cost standards for the other types of facilities are derived from the third quartile costs of previously approved projects and are to be adjusted to the current year based upon historic inflation rates from RSMeans.

HFSRB NOTE: HFSRB staff will review the cost per square foot data submitted in the application to determine compliance with the latest available cost standards of the RSMeans publication.

HFSRB NOTE: Modernization includes the build out of leased space and shall include the cost of all capital improvements contained in the terms of the lease. These standards are based on 2008 data.

Type of Facility	New Construction	Modernization
LTC (includes ICF/DD facilities)	Adjusted Means 3 rd Quartile	70% of Adjusted Means 3 rd Quartile

- 4) **Contingencies**
Contingency costs for projects (or for components of projects) are based upon a percentage of new construction or modernization costs and are based upon the status of a project's architectural contract documents.

Status of Project	New Construction	Modernization
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ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Contract Documents	Components	Components
Schematics	10%	10-15%
Preliminary	7%	7-10%
Final	3-5%	5-7%

5) New Construction or Modernization Fees and Architectural & Engineering (A&E) Fees

Current fees for services for projects or components of projects involving new construction or modernization (total amount of construction and contingencies, A&E fees for LTC facilities and total fees for site work) can be found in the Centralized Fee Negotiation Professional Services and Fees Handbook (available at www.cdb.state.il.us or by contacting the Capital Development Board, 401 South Spring Street, Springfield, Illinois 62706). HFSRB shall, for all calculations, consider the latest version of the handbook as released on the Capital Development Board website.

A) Projects or Components of Projects Involving New Construction

Total Amount of Construction and Contingencies	LTC Facilities
under \$100,000	10.59-15.89%
\$ 200,000	9.99-14.99%
\$ 300,000	9.48-14.22%
\$ 400,000	9.03-13.55%
\$ 500,000	8.65-12.99%
\$ 700,000	8.21-12.33%
\$ 900,000	7.89-11.85%
\$ 1,000,000	7.79-11.69%
\$ 1,250,000	7.62-11.44%
\$ 1,500,000	7.49-11.25%
\$ 1,750,000	7.36-11.06%
\$ 2,500,000	7.06-10.60%
\$ 3,000,000	6.89-10.35%
\$ 5,000,000	6.42-9.64%
\$ 7,000,000	6.11-9.17%
\$ 9,000,000	5.94-8.92%
\$ 10,000,000	5.90-8.86%

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

\$ 15,000,000	5.76-8.66%
\$ 20,000,000	5.64-8.48%
\$ 25,000,000	5.52-8.28%
\$ 30,000,000	5.37-8.07%
\$ 40,000,000	5.12-7.68%
\$ 50,000,000	4.86-7.30%
\$100,000,000 and over	3.59-5.39%

B) Projects or Components of Projects Involving Modernization

Total Amount of Construction and Contingencies	A&E Fees for LTC facilities
under \$100,000	10.76-16.16%
\$ 200,000	10.16-15.26%
\$ 300,000	9.65-14.49%
\$ 400,000	9.20-13.80%
\$ 500,000	8.81-13.23%
\$ 700,000	8.36-12.56%
\$ 900,000	8.04-12.06%
\$ 1,000,000	7.93-11.91%
\$ 1,250,000	7.76-11.66%
\$ 1,500,000	7.63-11.45%
\$ 1,750,000	7.50-11.26%
\$ 2,000,000	7.40-11.12%
\$ 2,500,000	7.19-10.79%
\$ 3,000,000	7.02-10.54%
\$ 5,000,000	6.54-9.82%
\$ 7,000,000	6.22-9.34%
\$ 9,000,000	6.04-9.08%
\$ 10,000,000	6.00-9.02%
\$ 15,000,000	5.87-8.81%
\$ 20,000,000	5.74-8.62%
\$ 25,000,000	5.62-8.44%
\$ 30,000,000	5.48-8.22%
\$ 40,000,000	5.21-7.83%
\$ 50,000,000	4.95-7.43%
\$100,000,000	3.65-5.49%

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

and over

- 6) **Capital Equipment Not Included in Construction Contracts**
Standards for capital equipment not included in construction contracts are established by type of facility and are derived from the third quartile costs of previously approved projects for which data are available. The standards apply only to the following types of projects: establishment of new facilities, expansion of existing facilities (e.g., bed additions, station additions, or operating/treatment room additions), and modernization of existing facilities involving replacement of existing beds, relocation of existing facilities, replacement of ASTC operating or procedure room equipment, etc. The standards below are calculated for the year 2008. These will be inflated to the current year using the inflation of major medical equipment by the department. (Long-Term Care standard includes ICF/DD.)

HFSRB NOTE: Modernization includes the build out of leased space and shall include the cost of capital equipment included in the terms of the lease.

LTCs per Bed

\$6,491

- 7) **Inflation Factor**
Costs for construction and modernization contracts and equipment are to be adjusted for projected inflation. The projected inflation rate is to be calculated to the midpoint of construction. For construction midpoint of up to 3 years, the inflation rate shall be an average of the previous 3 years annual inflation rates for construction as determined by RSMeans. For construction midpoints beyond 3 years, the inflation rate shall be the lesser of this rate or 3% for the period of time beyond 3 years.

b) **Financial Viability Standards**

- 1) **Current Ratio = Current Assets/Current Liabilities**

Type of Long-Term Care (including ICF/DD) Facilities:

Not-For-Profit, System	1.5 or more
Not-For-Profit, Non-System	1.5 or more
For-Profit, System	1.5 or more

ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

For-Profit, Non-System	1.5 or more
Governmental	1.5 or more

- 2) Net Margin Percentage = (Net Income/Net Operating Revenues) X 100

Type of Long-Term Care (including ICF/DD) Facilities:

Not-For-Profit, System	2.5% or more
Not-For-Profit, Non-system	2.5% or more
For-Profit, System	2.5% or more
For-Profit, Non-system	2.5% or more
Governmental	0% or more

HFSRB NOTE: Net Margin Percentage for For-Profits is before the provision for income taxes. Net income is the excess of revenues over expenses from operations, before non-recurring income or expense.

- 3) Long-Term Debt to Capitalization = (Long-Term Debt/Long-Term Debt plus Net Assets) X 100

Type of Long-Term Care (including ICF/DD) Facilities:

Not-For-Profit, System	80% or less
Not-For-Profit, Non-system	80% or less
For-Profit, System	50% or less
For-Profit, Non-system	50% or less
Governmental	NA

HFSRB NOTE: For long-term care facilities and for-profit facilities, the applicant shall explain the rationale of the use of debt rather than the issuance of stock (if this is the case).

- 4) Projected Debt Service Coverage = Net Income plus (Depreciation plus Interest plus Amortization)/Principal Payments plus Interest Expense for the Year of Maximum Debt Service after Project Completion

Type of Long-Term Care (including ICF/DD) Facilities:

Not-For-Profit, System	1.5 or more
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ILLINOIS REGISTER

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Not-For-Profit, Non-system	1.5 or more
For-Profit, System	1.5 or more
For-Profit, Non-system	1.5 or more
Governmental	1.5 or more

HFSRB NOTE: Net Income is the excess of revenues over expenses from operations, before non-recurring income or expense.

- 5) Days Cash on Hand = (Cash plus Investments plus Board Designated Funds)/(Operating Expense less Depreciation Expense)/365 days

Type of Long-Term Care (including ICF/DD) Facilities:

Not-For-Profit, System	45 or more days
Not-For-Profit, Non-system	45 or more days
For-Profit, System	45 or more days
For-Profit, Non-system	45 or more days
Governmental	45 or more days

HFSRB NOTE: Days Cash on Hand ratio can be a combination of cash and investments held by the facilities or available funds from the backup line of credit.

- 6) Cushion Ratio = (Cash plus Investments plus Board Designated Funds)/(Principal Payments plus Interest Expense) for the year of maximum debt service after project completion

Type of Long-Term Care (including ICF/DD) Facilities:

Not-For-Profit, System	3.0 or more
Not-For-Profit, Non-system	3.0 or more
For-Profit, System	3.0 or more
For-Profit, Non-system	3.0 or more
Governmental	NA

HFSRB NOTE: The applicant may also include in the numerator the amount of funds available from an existing or proposed backup line of credit. If the

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NOTICE OF PROPOSED AMENDMENTS

applicant includes funds available from a line of credit, documentation shall be provided regarding the terms and conditions of the line.

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